

SUPREME COURT OF ARIZONA

In the Matter of)	Arizona Supreme Court
)	No. R-13-0055
RULES 35(D), 82(B), 83, & 84,)	
RULES OF FAMILY LAW PROCEDURE)	
)	
)	
)	FILED 09/02/2014
)	
)	

ORDER

**AMENDING RULES 35(D), 82(B), 83, AND 84, ARIZONA RULES OF FAMILY LAW
PROCEDURE**

A petition having been filed proposing to amend Rules 35(D), 82(B), 83, and 84, Arizona Rules of Family Law Procedure, and comments having been received, upon consideration,

IT IS ORDERED that Rules 35(D), 82(B), 83, and 84, Arizona Rules of Family Law Procedure, be amended in accordance with the attachment hereto, effective January 1, 2015.

DATED this 2ND day of September, 2014.

SCOTT BALES
Chief Justice

TO:

Rule 28 Distribution

John A Furlong

Hon. Sean E Brearcliffe

ATTACHMENT¹

ARIZONA RULES OF FAMILY LAW PROCEDURE

Rule 35. Family Law Motion Practice

A. – C. [No change in text.]

~~D. Motions for Reconsideration.~~ ~~A party seeking reconsideration of a ruling of the court may file a motion for reconsideration. All motions for reconsideration, however titled, shall be submitted without oral argument and without response or reply unless the court otherwise directs. No motion for reconsideration shall be granted, however, without the court providing an opportunity for response. A motion authorized by this rule may not be employed as a substitute for a motion pursuant to Rule 82(B), 83 or 85(C) and shall not operate to extend the time within which a notice of appeal must be filed. A motion for reconsideration shall be filed not later than thirty (30) days after the date of filing of the ruling sought to be reconsidered. Any motion for reconsideration or clarification must comply with Rule 84.~~

COMMITTEE COMMENT

[No change in text.]

Rule 82. Findings by the Court; Judgment on Partial Findings

A. [No change in text.]

~~B. Amendment Sufficiency of Evidence.~~ ~~Upon motion of a party made not later than fifteen (15) days after entry of judgment the court may amend its findings or make additional findings and may amend the judgment accordingly. The motion may be made with a motion for a new trial pursuant to Rule 83. When findings of fact are made, the question of the sufficiency of the evidence to support the findings may thereafter be raised in a Rule 83 motion for new trial or amended judgment, whether or not the party raising the question has objected to those findings made in the superior court ~~an objection to such findings~~ or ~~has made a motion to amend them or~~ a motion for judgment.~~

¹ Changes or additions in rule text are indicated by underscoring and deletions from text are indicated by ~~strikeouts~~.

C. – D. [No change in text.]

COMMITTEE COMMENT

[No change in text.]

Rule 83. Motion for New Trial or Amended Judgment

A. Grounds. A ruling, decision or judgment may be altered or amended, or vacated and a new trial granted, on motion of the aggrieved party for any of the following causes materially affecting that party's rights:

1. – 6. [No change in text.]

B. Scope. A ruling, decision or judgment may be altered or amended, or ~~A~~a new trial may be granted to all or any of the parties and on all or part of the issues for any reasons for which new trials are authorized by law or rule of court. On a motion for new trial, the court may open the judgment, if one has been entered, take additional testimony, amend or alter findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new ruling, decision or judgment.

C. – G. [No change in text.]

Comment to 2015 Amendment

These revisions merge former Rule 84 (Motion to Alter or Amend a Judgment or Order) into Rule 83 to simplify the Arizona Rules of Family Law Procedure governing challenges to court rulings.

COMMITTEE COMMENT

[No change in text.]

Rule 84. Motion for Reconsideration or Clarification ~~to Alter or Amend a Judgment or Order~~

~~A party seeking alteration or amendment of a judgment or order of the court may file a motion for alteration or amendment of a judgment or order. All such motions shall be filed not later than 15 days after entry of the judgment or order. A motion authorized by this rule may not be employed as a substitute for a motion pursuant to Rule 82(B), 83 or 85(C). Responsive judgment or order, except as otherwise ordered by the court.~~

A. Grounds. Any party may file a motion to reconsider or clarify the court's ruling for the following reasons:

1. The court did not properly consider or weigh all of the admitted evidence;
2. The court did not properly consider, interpret or apply the controlling law;
3. The court mistakenly overlooked or misapplied uncontested facts, including mathematical errors, that were necessary to the ruling; or
4. The ruling is confusing or susceptible to more than one reasonable interpretation.

B. Scope. All motions for reconsideration or clarification, however titled, shall specify one or more of the grounds enumerated in paragraph A above as the basis for the motion. All such motions shall be submitted without oral argument and without response or reply unless the court otherwise directs. No such motion shall be granted, however, without the court providing an opportunity for written response. A motion authorized by this rule may not be substituted for, combined with, or pled alternatively to, a motion filed under Rule 83. On a motion for reconsideration or clarification, the court may, after allowing an opportunity for written response, modify its ruling as appropriate. The court may not, however, open the judgment or accept additional testimony or evidence as it could with a motion filed under Rule 83.

C. Partial Rulings; Oral Argument. The court may summarily deny a motion for reconsideration or clarification with regard to one or more challenged rulings, while ordering a written response concerning others. The court may also schedule oral argument on any aspect of the motion if it believes oral argument could prove helpful.

D. Timing of Motion. A motion offered under enumerated grounds (1), (2) or (3) of paragraph A of this rule shall be filed no later than 30 days after entry of the relevant ruling. Motions offered under enumerated ground (4) of paragraph A of this rule may be made at any time deemed appropriate by a party or the court.

E. Effect of Motion on Time for Appeal. No motion authorized by this rule shall suspend or extend the deadline for filing a notice of appeal from the relevant ruling.

Comment to 2015 Amendment

This rule replaces content that formerly appeared in Rule 35(D).

COMMITTEE COMMENT

[No change in text.]